



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
TEGE EO Examinations Mail Stop 4920 DAL  
1100 Commerce St.  
Dallas, Texas 75242

501.03-00

**Date: April 18, 2011**

Number: **201130012**

Release Date: 7/29/2011

**LEGEND**

ORG - Organization name

XX - Date Address - address

**ORG**

**ADDRESS**

**Taxpayer Identification Number:**  
**Person to Contact:**  
**Employee Identification Number:**  
**Employee Telephone Number:**  
(Phone  
(Fax)

**CERTIFIED MAIL - RETURN RECEIPT**

Dear :

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated June 10, 20XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.

The revocation of your exempt status was made for the following reason(s):

You are not operated exclusively for charitable, education, or other exempt purposes. You did not engage primarily in activities which accomplish one or more of the exempt purposes specified in section 501(c)(3). More than an insubstantial part of your activities were in furtherance of a non-exempt purpose. You operated for the benefit of private interests, and your net earnings inured to the benefit of insiders.

During the tax years 20XX and 20XX, your primary activity involved parents working concessions and earning income in direct proportion to the work that they performed. The parents received benefits toward their children's educational and extracurricular activity expenses. This directly benefits specific individuals and their parents rather than a charitable class as a whole.

IRC Section 501(c)(3) precludes Federal income tax exemption if net earnings inure to the benefit of private shareholders or individuals. Because IRC Section 501(c)(3) prohibits inurement of earnings, your exempt status is hereby revoked.

IRC Section 501(c)(3) tax exempt status of ORG should be revoked because the assets of the Organization inure to the benefit of the individuals. It has served a private rather than public purpose and it is not operated exclusively for tax exempt purposes.

Contributions to your organization are no longer deductible under IRC §170 after January 1, 20XX.

You are required to file tax returns on Forms 1120. This return should be filed with the appropriate Service Center for the tax year ending December 31, 20XX, and for all tax years thereafter in accordance with the instructions of the return.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91<sup>st</sup> Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to the United States Tax Court at the following address:

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Nanette M. Downing  
Director, EO Examinations

Enclosures:  
Publication 892



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service  
MC 4926 DSM TEGE:7935  
210 Walnut Street  
Des Moines, Iowa 50309

February 9, 2011

ORG  
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
Name of Taxpayer <b>ORG</b>		Year/Period Ended December 31, 20XX December 31, 20XX

**LEGEND**

ORG - Organization name      XX - Date      City - city      State - state  
CO-1 & CO-2 = 1<sup>st</sup> & 2<sup>nd</sup> COMPANIES

**ISSUE:** Does ORG still qualify to be exempt under IRC Section 501(c)(3).

**FACTS:**

ORG (Organization) received its exempt status in 20XX effective August 16, 20XX as a charitable organization.

In its "Application for Recognition of Exemption", Form 1023 the organization said, "ORG is a volunteer fundraising booster group in support of educational, charitable, church and sports activities of kids in the City, State area. All monies fundraised are distributed the support of these exempt organizations."

The Articles of Association signed on March 24, 20XX state the Organization is organized exclusively for charitable, religious, educational, and scientific purposes, including the making of distributions to organizations that qualify as exempt under section 501(c)(3) of the IRC.

The Organization runs a concession stand at CO-1, City, State during events for CO-2 (CO-2). The Organization supplies the workers and CO-2 provides the food and supplies needed in the stand. The Organization signs up individuals to perform the work at the concession stand during specific events. CO-2 gives a percentage of the sales to the Organization. After the Organization receives its payment from CO-2 it divides the money between the individuals that worked the event.

The Organization asks the individuals to sign an agreement form before working for the organization. The agreement form asks for the individual's contact information, which kids he/she is raising funds for, and what educational or activity expense the funds are being raised for. The forms receive by the organization indicate the money is being raised for the individual's own children. During 20XX there were 43 individuals and in 20XX there were 38 that received payments.

When the Organization needs workers for the concession stand it sends a request via e-mail to the individuals. The individuals pick and choose which times they are able to work. The Organization retains part each payment from CO-2 to cover administration expenses. The remaining amount is divided between the individuals that worked that event. Individuals are able to receive their share of the proceeds in a check sent to them or the organization will send a check to the directly to the school to pay for that child's extra curricular activities or tuition.

The memo lines of the checks sent to the schools note the name of the child and what the payment is for. The memo line on the checks and/or the check register shows the amounts were used to pay for the individuals' children's expenses for various extra curricular activities, school tuition and fees, including but not limited to trap, skeet, band, dance, tuition, costumes, camp, school registration expenses, pictures, school trips, team expenses, show choir and college tuition.

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
Name of Taxpayer <b>ORG</b>		Year/Period Ended December 31, 20XX December 31, 20XX

**LAW:**

IRC § 501(c)(3) provides that organizations organized and operated exclusively for charitable, education, religious, scientific, testing for public safety, literary or to foster national or international sports, or the prevention of cruelty to children or animals is exempt. The code section also requires that there be no inurement of earnings to private shareholders or individuals.

Treas. Reg. § 1.501(c)(3)-1(c)(1) states that an organization is operated exclusively for exempt purposes if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). It goes on to say that an organization will not be regarded as operating exclusively for exempt purposes if more than an insubstantial part of its activities is for a non-exempt purpose.

Treas. Reg. § 1.501(c)(3)-1(c)(2) states that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. Treas. Reg. § 1.501(a)-1(c) defines private shareholder or individual as persons having a personal and private interest in the activities of the organization.

Treas. Reg. § 1.501(c)(3)-1(d)(ii) provides that an organization is not organized or operated for purposes of Section 501(c)(3) if it serves a private rather than public interest. To meet this requirement it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization or persons controlled, directly or indirectly, by such private interests.

**GOVERNMENT'S POSITION**

The IRC Section 501(c)(3) tax exempt status of ORG should be revoked because the assets of the Organization inure to the benefit of the individuals. It has served a private rather than public purpose and it is not operated exclusively for tax exempt purposes.

To meet the requirement of Treas. Reg. § 1.501(c)(3)-1(d)(ii) ORG needs to establish that it is operated for a public rather than private interest of designated individuals, the creator or his family, shareholders of the organizations or persons controlled, directly or indirectly, by such private interests.

The facts that the organization does not have any other activities besides the fundraising, it is not raising funds for a specific school or league and the money is used to pay for activity fees and/or tuition of the children of the individuals that work the fundraising event show the assets of the Organization were used for the individuals private benefit.

The cancelled checks of the organization show that the amounts were paid for the individual student's fees for education and extra curricular activities. The money that was sent to the schools was ear marked for a specific student's fees or tuition. This is private benefit to the individuals rather than a donation to the schools. Since the funds raised by the ORG inures

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<b>Explanation of Items</b>		
Name of Taxpayer <b>ORG</b>		Year/Period Ended December 31, 20XX December 31, 20XX

to the benefit of the individuals involved in the organization it does not qualify to be exempt.

The Organization's only activity is working the concession stand for CO-2. This is a fundraising activity. Fundraising in itself is generally not a charitable activity. It is a way for an organization to raise money for it to use in its charitable or educational programs. An organization that is set up to raise funds for a charitable organization may have only fund raising as its activity i.e., an organization set up to raise money to support the local library. The reason this type of organization is exempt is because all of the funds raised go to the local library. Unlike the present case where the money goes to the parents who use it to pay tuition or extra curricular activity fees of their children.

The purpose of the Organization is to raise funds for individuals. This is not an exempt activity. As provided in Treas. Reg. § 1.501(c)(3)-1(c)(1) an organization does not qualify to be exempt if more than an insubstantial part of its activities is for a non-exempt purpose. In this case one hundred percent (100%) of the Organization's activities are for a non-exempt purpose therefore, the Organization does not qualify to be exempt.

#### **TAXPAYER'S POSITION**

In discussion with the taxpayer's representative on February 1, 20XX, taxpayer's neither agree to the revocation, nor do they agree to extending the statute of limitations on the tax year ending December 31, 20XX. Their position on both is that there is "no benefit to them" in doing either one.

#### **CONCLUSION**

ORG no longer qualifies to be exempt from federal income tax. ORG is required to file Forms 1120 for 20XX, 20XX, 20XX and 20XX. The forms should be mailed to:

The profit for 20XX was \$ the profit for 20XX was \$ and the profit for 20XX was \$. The tax rate on the first \$ of taxable income of a corporation is %. Therefore, the tax due for each year is \$ for 20XX, \$ for 20XX and \$ for 20XX.